

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
Plaintiff.

No. CR 08-0405 CW  
15-0118 CW

ANTONIO ROYAL,  
Defendant.

ORDER DENYING  
GOVERNMENT'S  
MOTION TO STAY

# **United States District Court**

For the Northern District of California

Defendant, a federal prisoner, has filed a motion under 28 U.S.C. § 2255 to correct his sentence based on the Supreme Court's decision in Johnson v. United States, 135 S. Ct. 2551 (2015). The government has now filed a motion to stay the proceedings pending the resolution of Beckles v. United States, S. Ct. Case No. 15-8544, in which the Supreme Court will address the applicability of Johnson to the residual clause of the Career Offender provision of the United States Sentencing Guideline and, if it is applicable, whether Johnson applies to collateral challenges to federal sentences enhanced based on the residual clause of the Career Offender Guideline.

Having considered the government's motion and the record in the case, the Court DENIES the motion. Case No. 08-405, Docket No. 48; Case No. 15-118, Docket No. 36. Judicial economy is not alone enough to justify a potentially lengthy stay in habeas

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1 cases. Yong v. INS, 208 F.3d 1116, 1120-21 (9th Cir. 2000). Like  
2 a habeas petition, a § 2255 motion "challenging illegality of  
3 detention, is reduced to a sham if trial courts do not act within  
4 a reasonable time." Id. at 1120 (quoting Jones v. Shell, 572 F.2d  
5 1278, 1280 (8th Cir. 1978)) (internal alteration marks omitted).  
6 Time could be of the essence for defendants challenging sentences  
7 enhanced based on the residual clause of the Career Offender  
8 Guideline. Even in non-habeas cases, the Supreme Court has held  
9 that a party seeking a stay must show "a clear case of hardship or  
10 inequity in being required to go forward, if there is even a fair  
11 possibility that the stay . . . will work damage to some one  
12 else." Landis v. N. Am. Co., 299 U.S. 248, 255 (1936). The  
13 government has failed to show any hardship or inequity to justify  
14 a stay of these proceedings.  
15

16 If the Court grants the § 2255 motion, it will proceed to  
17 resentencing. Execution of any new sentence would be stayed and  
18 contingent on the Supreme Court's decision in Beckles, but the  
19 parties would be able to proceed with any appeals.  
20

21 IT IS SO ORDERED.

22  
23 Dated: August 2, 2016

  
24 CLAUDIA WILKEN  
25 United States District Judge  
26  
27  
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